

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By **CHAIRMAN JERRY O'NEIL**, on March 19, 2003 at 3:15 P.M., in Room 350 Capitol.

ROLL CALL

Members Present:

Sen. Jerry O'Neil, Chairman (R)
Sen. Duane Grimes, Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Brent R. Cromley (D)
Sen. Bob DePratu (R)
Sen. John Esp (R)
Sen. Dan Harrington (D)
Sen. Trudi Schmidt (D)
Sen. Emily Stonington (D)

Members Excused: None.

Members Absent: None.

Staff Present: Dave Bohyer, Legislative Branch
Andrea Gustafson, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 499, 2/27/2003; HB 585,
2/27/2003; HB 703, 3/5/2003
Executive Action: HB 585; HB 703; HB 557

HEARING ON HB 499

Sponsor: REP. EVE FRANKLIN, HD 42, Great Falls

Proponents: Mike Spence, Department of Public Health & Human Services (DPHHS)
Joan Miles, Director, Lewis & Clark County Health Dept.
Beda Lovitt, Physicians of MT Medical Association
Alley Bovington, Asst. Attorney General
Bill Kennedy, Yellowstone County Commissioner
Sami Butler, MT Nurses Association
Mona Jamison, Gallatin County
Pat Clinch, MT Professional Firefighters, President

Opponents: Mike Fellows, Self, Missoula

Opening Statement by Sponsor:

REP. EVE FRANKLIN, HD 42, Great Falls, said the bill was brought by the Department of Public Health and Human Services (DPHHS), but it was the result of a collaborative work between the local government entities and the Public Health Department. It was an act to revise emergency health powers and communicable disease laws in order properly to place authority in the government entities that needed to be identified in order for us to respond appropriately to any kind of emergency. The majority of the bill was old law and the changes related to redefining and clarification. The most critical piece added bio-terrorism on the first page, Line 22, regarding incidents of mass destruction. Bio-terrorism was added to a long list of other emergency situations that were in the form of natural disasters: land slides, mud slides, wind storms, fires, explosion, water contamination, hostile or para military action. Those were already in law where the community says the government must have a response for those things. The bill was adding bio-terrorism and incidents of mass destruction based on the recent events that have taken place. Page 3 dealt with the community health piece, it provided definitions of communicable disease. It helped define what some Public Health issues were. It defined isolation and quarantine and it did it in statute as opposed to the annotated rules in the law, for all to see. On Page 5, Line 14, said "shall enact or take measures to prevent and alleviate injury from the release of biological, chemical and radiological agents capable of causing eminent infection, disability or death." REP. FRANKLIN said it did not create a new body of law.

Proponents' Testimony:

Mike Spence, Department of Public Health & Human Services (DPHHS) read and submitted his written testimony.
EXHIBIT (phs58a01)

Joan Miles, Director, Lewis & Clark County Health Department, said she served on a committee with the Department of Justice and State Health Department to look at public health laws to see if all the authorities needed, were in place to respond efficiently in case of a communicable disease outbreak or some kind of bio terrorism attack. They agreed not to look to the model act and fill in the blanks. They realized when they went through the statutes that functionally the most important thing that needed to be done in the state was to respond to communicable disease or public health threats that were already in statute. There were authorities that the Governor had to take action, authorities the Department of Military Affairs had, there were authorities in Local Public Health and State Public Health, and there were area authorities in Department of Environmental Quality to take action. The state had what it needed to function as well as things that were not in statute that were in the model act. The committee agreed that those were probably more extreme and they agreed not to go after the model powers act. They discovered as they went through Montana's statutes' that most of those dealing with Public Health issues had not been amended since the 1930's and they were disjointed. The delegation of authority concerning communicable diseases was broad. Because the authorities were governed by it and because if there were a communicable disease outbreak, the Department of Public Health had to take action to protect the public from the spread of that disease. The first thing the bill did was take the existing rules and put it into statute, which was a protection for everyone in the state. The first section added a few definitions to the authorities under the Department of Military Affairs. They believed that the Governor had power to declare an emergency if there were a bio terrorism attack but the recommendation was to put it into statute so that it was clear for the authorities who acted on it. In Section 3, Title 50, Chapter 1, it dealt with State Health Department authorities and what they did was put in the definition of communicable disease with some clarifying language and again put in isolation and quarantine, both of which exist in rule. The authority was already there, but now it was clearly stated in statute. It specified some general powers and duties of the State Health Department. In Section 6, Title 50, Chapter 2, that dealt with the local boards of Health. Identical language was put in from the state powers along with local powers because those were not consistent in the past. It made sure the State Health Department and the Local Health Department acted under the

same language and the same limitations and the same authorities. Local boards of health had expansive powers to take action when necessary and local health officers had to go through the State Health Department under their rules which left local health people in a quandary. The statutes had existing authorities start at the local level, then go through the Boards of Health, and then they acted in coordination with the State Health Department. She said the community needed to be able to respond locally, do it in coordination with the state, but many the smaller communities did not have a full time health officer or a contracted physician. A local health officer needed to know he or she had the authority to go through their local board of health and to take action. It took existing authorities that were in rule and made sure it was coordinated and clarified who could do what and when it could be done and then act efficiently on it.

Beda Lovitt, Physicians of MT Medical Association, said the bill represented some important, necessary, sensible, clarification of the law in the face of a current event. She urged for support of HB 499.

Alley Bovington, Asst. Attorney General, said she was there for the Department of Justice for HB 499. She said HB 499 was very important and urged a DO PASS recommendation.

Bill Kennedy, Yellowstone County Commissioner, Montana Association of Counties, turned in a letter from the Board Chair and CEO of the Yellowstone City County Health Department asking for support. **EXHIBIT (phs58a02)** He said HB 499 would provide essential legal authority to assure an adequate response to bio-terrorism and incidents of mass destruction and HB 499 clarified the existing powers of the Department of Public Health and Human Services and local boards of health and health officers and it did not grant new authority. He said the bill was needed to successfully carry out a sound response plan for Montana and asked for support of HB 499.

Sami Butler, MT Nurses Association, said nurses represented the largest number of health care providers in the state and also the nation and historically the effects of disaster and emergency were eliminated by their efforts in the past. They have aided in the civil defense of the nation and she urged the committee to support HB 499 to ensure the ability to respond in the interest of public health adequately.

Mona Jamison, Gallatin County, said she was an attorney in Helena and was lobbying for Gallatin County who strongly supported the bill. When she worked for **Governor Schwinden,** the

Governor had certain provisions under the act that related to jurisdictional local authority if disaster and emergency were declared. The bill was housekeeping and it clarified that if there was a bio terrorism attack, they were definitely included within these definitions. She said the bill's clarification was a preemptive strike to make sure that the different levels of government could take care of its people and respond quickly and efficiently when they needed to. Gallatin County strongly supported HB 499.

Pat Clinch, MT Professional Firefighters, President, supported HB 499 and spoke for **Mr. Jim Green** who was the administrator of the Disaster and Emergency Services. **Mr. Green** was called away for an important homeland task force meeting and he wanted it on record that the Homeland Security Task Force did support HB 499.

Opponents' Testimony:

Mike Fellows, Self, Missoula, said he had concerns over local control having too much power over the individual. He thought there could be some problems with the infringement on citizens rights of privacy and freedom in case of disaster to choose their own form of care. He said to force them to do whatever the local state health department says or whatever the state said, but many people would not want that. He asked for those concerns to be taken into consideration and hoped the committee would oppose the bill.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. JOHN ESP, SD 13, Big Timber, said on Page 7, in the middle of the page read, *"local boards may adopt and enforce isolation and quarantine measures to prevent the spread of communicable diseases in coordination with the Department."* He asked Mr. Kennedy what his understanding of *"in coordination with the Department"* was.

Mr. Kennedy referred to **Ms. Miles.**

Ms. Miles said it was to take any action at the local level and notify the State Health Department so they would be aware of anything in our community and other communities and could probably track it. She was not sure about the wording *"in coordination,"* but the intent was that they would notify the State Health Departments of any action taken, which was done already.

SEN. ESP thought coordinating said something beyond notifying and asked what that might be. **Ms. Miles** said she would ask the attorney for DPHHS who chose the language "in coordination." It was intended so that action could take place on the local level and inform the state.

{Tape: 1; Side: A}

Mr. Spence said that one of the things recognized was that if something happened, it was not going to happen here in Helena necessarily, or if it did happen in Helena, what it was going to do would be effectively determined by the medical community. Once the medical community determined that there was a problem so important it would come under the auspices of the local health department, in order for the state to deploy any sources, provide guidance, or bring in other agencies, coordination had to occur. He said his understanding of that would be, for an example, if an outbreak of an illness that required something from our national pharmaceutical stock pile, the county did not have that locally in their county but it was at three undisclosed sites in the State of Montana. The county would notify the locals and they would coordinate efforts to get the various agents from the national pharmaceutical stock pile to dispense and take care of the problem.

SEN. ESP asked if it were in the code requiring local boards and medical providers to notify the Department of Public Health if there was a communicable disease or something of that nature.

Mr. Spence said that had been long standing. There were such rules already in place about communicable diseases. An example was if there was a food outbreak that was communicable, such as a case of Hepatitis, a case of HIV, or sexually transmitted disease, there was a whole myriad of different communicable diseases where notification is already received and there was an ongoing working relationship of each county in the state.

SEN. ESP asked if the definition at the bottom of Page 5 appeared anywhere else. **REP. FRANKLIN** said it did not. She said when they looked at how communicable disease was defined, and it came out of consulting textbooks and adopted language.

SEN. ROBERT DEPRATU, SD 40, Whitefish asked **Mr. Fellows** to clarify what his fears were about the bill. **Mr. Fellows** said there were sections of the bill, such as Page 9, Lines 3 and 4. He said that some health care professionals, such as himself, would isolate the trouble, but there had been different legislation over the years that would require kids to get certain immunizations required by the state. If this were against their will, some people would not want to do that. He said it would

depend on what kind of calamity or what kind of communicable disease was out there. What if, for example, small pox was the problem and most people died of the small pox vaccination because they had to take it against their will because we thought it was the right thing to do.

SEN. DEPRATU asked if it were known there was a small pox outbreak and it was known a certain group of people had been exposed, should they be allowed to go out in public, knowing that many people would die. **Mr. Fellows** said no.

SEN. DEPRATU asked how it should be handled then. **Mr. Fellows** thought people with symptoms of small pox should be hospitalized.

SEN. DEPRATU asked if the people exposed should be quarantined or if they should be allowed to wander, exposing others. **MR. Fellows** said this was based on the "assumption" that a particular group of people had small pox and to quarantine them for 90 days. I am not sure that is acceptable. He wanted to make sure they had the symptoms.

SEN. DEPRATU asked **Mr. Fellows** how he would handle a situation where a group of people had come off a charter bus exposed. **SEN. DEPRATU** said he was a conservative person, but that he had a real problem with not trying to be more safe. When it came to this issue, he had enough training in disaster, from a small town standpoint, from being in the Fire Department and Fire Chief for years. He said there were certain things that had to be done. **Mr. Fellows** said better words might be "reasonable and prudent." There were things that were reasonable and there were things that were prudent. He agreed that if there were problems on the bus or with the American Legionnaires disease, those people would have to be quarantined for a while.

SEN. DEPRATU referred to **Mr. Fellow's** earlier testimony regarding people who might receive treatment they did not want. **SEN. DEPRATU** asked him in case of an explosion by terrorists, would he want all of those people treated whether they were capable of responding or not. **Mr. Fellows** said ideally he would, but he thought the ideal thing would be to sell them on the treatment rather than force an inoculation on them, no matter what they wanted.

SEN. DEPRATU said he believed people would need to be treated, when they needed to be treated and that we should be prepared to do that.

SEN. BRENT CROMLEY, SD 9, Billings, asked **Mr. Kennedy** to explain the process of declaring an emergency, as with a communicable

disease or bio-terrorism and who had the authority locally and did that operate in the state. **Mr. Kennedy** said with the anthrax scare in Yellowstone County, the City County Board of Health received 112 different incidents. They closed down the post office and called HAZMAT.

Mr. Kennedy said the City of Billings had the HAZMAT come to the Post Office and they worked through the emergency system. The city did a coordination program through the disaster and emergency services, city county health, and law enforcement. Everyone came together and they had a whole program set up that laid out what an emergency was. **Dr. Moran** of Yellowstone County was the Medical Director and the Health Director for Yellowstone County. All of the information was taken, and an incident report was done, and then coordinated with the State of Montana, after which an emergency was declared. Upon that emergency and declaration we do have a whole program in Yellowstone County of how to satisfy that emergency and then from there in coordination with the state's program. **Mr. Kennedy** referred to **SEN. ESP's** question of what did it mean with coordination with the State of Montana. **Mr. Kennedy** said out of those 112 incidents, they sent those to the State for confirmation whether it was anthrax or whatever. Every incident reported they had to check out. It was time consuming and they only had one person on their CBC in Yellowstone County and with some federal dollars they will have another person on board. For a county of 130,000 people it was a lot of work for a few people but in coordination with the state. Once an emergency was declared, they went back and involved the elected officials such as the Mayor and the County Commissioners. They declared the emergency and they went through the steps of the plan that was in place.

SEN. CROMLEY asked if "we" referred to the Department of the City Council or the County Commissioners. **Mr. Kennedy** said he was referring to the City County Board of Health. All of the issues came back to the Board of Health, and the Board of Health worked in coordination with all the emergency agencies. He said they worked with the emergency coordinator, **Jim Craft**, who headed the disaster and emergency services. The health director coordinated work with the city county board and he was the one who stated the final emergency.

SEN. JOHN BOHLINGER, SD 7, Billings, asked **Mr. Fellows** if he understood him correctly in that his concern was for the legislation that focused on the notion that too much centralized control was provided and the individual was ignored.

Mr. Fellows said yes. He thought local city county health boards had much power and that anytime individuals were dictated to, it

created trouble concerning safety. He wanted to make sure the facts were out in the open and not just react to something that "might" happen.

SEN. BOHLINGER said he grew up in Billings and when he was seven or eight years old, back in 1944 or 1945, there was a polio epidemic in his town. The outbreak caused the city county to quarantine his family, so they were confined to their yard for an entire summer. At age seven or eight, he thought that was a bad idea but looking back he wondered if the older and wiser people of the community felt that in the greater good of the community and trying to prevent the spread of polio this was necessary.

SEN. BOHLINGER asked if **Mr. Fellows** could see that there might be incidents like that where the greater good of the community needed to be regarded with the issue as opposed to just one individual right. **Mr. Fellows** said he could see that if it were looked at on a case by case basis, there were probably some that were going to be more important than others and that was something they were going to have to look at, such as people like the Jehovah Witnesses and the Scientologists who did not altogether believe in medical care. He asked how they would force them, although it might be in their best interest to get it.

SEN. BOHLINGER said the United States would be engaging in war soon that may have many battle fields. It may not be fought in Iraq but we could be fighting terrorists who lived in Helena or Billings, or anywhere there might be a population center. **SEN. BOHLINGER** said he had difficulty understanding his opposition to any effort to prepare ourselves for the eventuality of an attack, as to the greater good. **Mr. Fellows** said that was the job of the individuals and citizens coming together and putting together a plan. He said everyone should be involved to have a better chance of implementing that plan. People would then understand it and because of that, they would accept it more.

SEN. BOHLINGER asked if he did not have an opportunity for him and his members of his political party to have contributed in the drafting of legislation. **Mr. Fellows** said that would be the makeup of the local city county health. He said he was from Missoula and their boards tended to be one way versus the other and so much of their input did not really get heard in such things like enacting smoking bans, which he opposed because of property rights and where the local city county health boards did not look at the property rights. He said people needed to be kept safe despite whether it was the local business or not. He said it depended on the makeup of local boards themselves. Someone like himself could get on a local board, and he had tried many local boards in Missoula, but the makeup was and the way the

political climate was, he doubted they would see many of his people in his group getting on some of those boards.

SEN. JERRY O'NEIL, SD 42, Columbia Falls, asked if he had any suggestions how to amend any of these bills to address some concerns he had. **Mr. Fellows** asked to find a place where the words "reasonable and prudent" could be inserted, because what was reasonable and what was prudent for the health safety of our citizens of our community would be the way to go.

SEN. O'NEIL asked where he would put that in. **Mr. Fellows** said he could get that to him later because he had not found a place for it yet.

Closing by Sponsor:

REP. FRANKLIN thought the opponent's testimony highlighted their concerns and thought that if they looked at past legislation regarding communicable disease and HIV, it aided legislation. She said this particularly came to mind when legislation was being written to protect the public. **REP. FRANKLIN** said it was a delicate balance between medical privacy and individual privacy issues and the public good which was the exact balance they were trying to achieve. It was a core concern for the committee, the sponsor, and for those who worked to put the bill together and said, "yes, we saw the emergency model powers act, we decided it was too over reaching and not necessarily reasonable and prudent for our community, so we chose instead to do some very conservative changes in a state statute to address public safety without going overboard and excessively overstepping the people's privacy concerns." She said it was the core of much discussion on other communicable disease bills as well. **REP. FRANKLIN** acknowledged and agreed with **Mr. Fellows'** statement about wanting to talk to people about treatment and that it was very much the philosophy and the art and science of public health care to help people to seek treatment if necessary. If not, there were other measures to protect the public from isolation and quarantine. She did not see any dangers of rounding people up against their will or doing excessive kinds of things. Our society had become acutely aware of those issues, but she was confident that the legislation narrowed it down and focused on some housekeeping and clarification. She agreed with **Mr. Fellows** that reasonable and prudent was where we wanted to go in all things done and she had confidence that the reasonable people who were involved struggled with keeping the balance always.

{Tape: 1; Side: B}

HEARING ON HB 585

Sponsor: REP. EVE FRANKLIN, HD 42, Great Falls

Proponents: Sami Butler, Montana Nurses Association (MNA)
Jorge Ramirez, Family Physician
Kate Bratches, MNA
Karen Nelson, Registered Nurse
Vernon Bertleson, Montana Seniors Association
Del Longquist, AARP
Donna Bristow, Helena HealthCare, Inc.
Mike Fellows, Self, Missoula
Carla Gibson, MNA

Opponents: None.

Opening Statement by Sponsor:

REP. EVE FRANKLIN, HD 42, Great Falls, said HB 585 was an act that allowed the Advanced Practice Registered Nurse (APRN) to have the authority under current law to initiate and function with living will protocols and do not resuscitate. Advanced Practice Registered Nurses were individual nurses who had, for the most part, graduate degrees and Advanced clinical education. They sit for a national certifying exam to certify their level of competence as Advanced Practice Registered Nurses. This was an exam given much like a physician being Board Certified. It was the discipline's way of acknowledging they had a certain expertise. Then they were recognized under Montana State law as an Advanced Practice Registered Nurse when they could show that they had completed those extra steps and were certified in a clinical speciality area. The other part of the bill was the living will protocol and was currently in statute. It discussed the whole issue of Advanced directives of individuals being able to talk about how they were aware they had a terminal illness, that they could project what kinds of steps they would like to take for end of life care. The Advanced Practice Registered Nurse's scope of practice should include being able to initiate and administer a living will protocol. Often there were defacto places in law that ended up excluding APRN's, not by design, but because the law was written with the term physician in it. It might be appropriate when considering the Nurse Practice Act what an Advanced Practice Nurse could do. The bill did not change the Nurse Practice Act, nor did it change the living will protocol. It said the Advanced Practice Registered Nurse who was the primary care provider for a patient who decided to initiate a living will protocol could initiate and become a part of the process and carry out the living will protocol, which was the purpose of the bill.

Proponents' Testimony:

Sami Butler, Montana Nurses Association (MNA), read and submitted her written testimony. **EXHIBIT (phs58a03)**

Jorge Ramirez, Family Physician, said he had 20 years experience in end-of-life care. He also worked closely with an APRN for seven years in the same practice and he was there to strongly support the bill for two reasons: One, he thought it would improve end-of-life care in Montana, and second, he strongly believed that APRN's were well qualified to have discussions with patients about end-of-life care and to certify patients wishes.

Kate Bratches, MNA read and submitted her written testimony. **EXHIBIT (phs58a04)**

Karen Nelson, Registered Nurse read and submitted **Dr. Jennifer Elison's** written testimony. **EXHIBIT (phs58a05)**

Vernon Bertleson, Montana Seniors Association, said they supported the bill. He said he had been around long enough to see conditions and times when the bill would have meant a great deal to the people who wanted to have reasonable end-of-life process and handling of their relatives. In Eastern Montana where doctors were scarce, were the nurses aware of the situation that could provide the protection from the unnecessary and sometimes traumatic experience patients may have to go through because they did not have a "Comfort One" form signed. He thought of conditions when someone had to take a ride in an ambulance. If they did not have that paper or the information, the medics were going to have to try to prolong that person's life. **Mr. Bertleson** said it was an excellent opportunity to improve the situation for Seniors of Montana.

Del Longquist, AARP, said they were dedicated to serving today and in the future, those Montanan's who served us so well in the past and AARP rose in support of the bill and the wonderful people who provided the important service.

Donna Bristow, Helena HealthCare, Inc. read and submitted her written testimony **EXHIBIT (phs58a06)** and then read **Ira R. Byock, M.D.'s** written testimony. **EXHIBIT (phs58a07)**

Mike Fellows, Self, Missoula, said he supported the bill. Anytime "Comfort One" measures were dealt with, it was a good thing. He said he worked in a nursing home with many people whose quality of life would not be there if they tried to save them beyond those kinds of things.

Carla Gibson, MNA, read and submitted her written testimony.
EXHIBIT (phs58a08)

Opponents' Testimony: None.

Informational Testimony: None.

{Tape: 2; Side: A}

Questions from Committee Members and Responses:

SEN. CROMLEY asked if an APRN could diagnose terminal illness.

REP. FRANKLIN said yes and that it was important and this was where there were some differences between a Registered Nurse and an Advanced Practice Registered Nurse. A Registered Nurse differed in licensure. The licenses of Registered Nurse in the State of Montana would be a prerequisite for going on to graduate school and becoming certified as an APRN. It was a different level of education. A RN, in front of the Nurse Practice Act, could do health care assessments and there was some different language regarding that. An APRN had more medically oriented tools and it did definitely include diagnosis. They saw neo-natal babies to the terminally ill and did what was more conventionally considered a medical diagnosis.

SEN. CROMLEY said he looked and tried to find what definitions there were of occupations. He asked if the diagnosis treatment was a comparable provision. **REP. FRANKLIN** said it was in rule. It was a Board rule as opposed to being in Statute under the Board of Nursing established 25 years ago.

SEN. CROMLEY said he looked at the statutes on what defined Nursing and he did not see the term diagnosis used. **REP. FRANKLIN** said he would see it in the Nurse Practice Act for Registered Nurses, where the term "nursing assessment" was used but he might see "nursing diagnosis." It may or may not be in statute, but there was a lot of discussion about nursing diagnosis and typically, nursing diagnosis in literature tended to be more focused on what was called a kind of functional problem or problems of health responses and not the diagnosis. That would be nursing diagnosis.

SEN. CROMLEY asked if at some point in the treatment the APRN could say to the patient she had determined that the person's illness was terminal. **REP. FRANKLIN** said the APRN was responsible in total for the primary care of those patients. They would consult when necessary, like any general practitioner would do. A good analogy would be to think of your doctor and what he would do. They all did the basic primary care and

consulted when necessary and it was the professional obligation of the Nurse Practitioner to know when they needed to consult and they did that a lot. Consulting played a huge role in what APRN's did. If a person went to his primary care doctor and they determined he had an incurable brain tumor, they would be doing much consulting with an oncologist and then sorting out what needed to be done. She said when people focused on end-of-life care issues, the Comfort One statute was really geared toward people who had identified they had a terminal illness and they were during end-of-life care. That call was made when somebody was diagnosed with a terminal illness and was going to die. It was at that point a person had seen many specialists, had been home, and back to the hospital, and had remissions. It was a long process by which a family gets to the point and say they needed to start talking about it. It was not that momentary kind of thing in the movies where maybe the surgeon got the patient on the table and they said they got a defibrillator. She said the physician would make the call in that moment but that was not the Comfort One statute. The Comfort One statute dealt with people over time who had acknowledged they had a terminal illness.

SEN. CROMLEY asked if the bill passed, would there be some education in the community, particularly in the legal community. He thought it would cause some lawyers some concern when looking at the living will on Page 3, if a client came in and signed one where "or attending APRN" was added. **REP. FRANKLIN** said that was a valid question and that the APRN's were prepared to address that.

SEN. BOHLINGER asked how many people in Montana lived without a physician in their county. **Ms. Butler** said she did not have that number with her but said she could get that information to him.

SEN. BOHLINGER said his concern was for those people who lived in rural Montana and did not have the opportunity for a consultation with a medical doctor. He saw the need for what was being proposed which was why he thought it would be important to discuss the number of Montanans that would be affected in a positive way if this were to become law. **Ms. Butler** said she would be happy to get those figures for him.

SEN. DEPRATU said he strongly supported **REP. FRANKLIN's** bill. He asked why Montana was rated so low in the number of people who died at home and was it because something like a "Comfort One" was in statute. **Ms. Nelson** said it was mostly factorial. She thought most people in society found end-of-life discussions difficult. She thought that in the health care system today, everything was so rushed and hurried that many times people did

not have those sit-down conversations and nurses tended to do that for them.

SEN. DEPRATU thought it better for a person to have his final days at home when it is possible, using Hospice. **Ms. Nelson** stressed that it was the patients and the family that usually made the decision along with their health care provider. That decision could be rescinded anytime. If the health care practitioners thought it was time to look toward Comfort One care and for that person to get his affairs in order, he can say no. A person could be on the Hospice program and still want to be resuscitated. It was his life.

SEN. TRUDI SCHMIDT, SD 21, Great Falls, asked what was the difference between a Family Nurse Practitioner and an Advanced Practice Registered Nurse. **Ms. Butler** said there were four designations of Advanced Practice Nursing in Montana and across the country. The Nurse Practitioner, Clinical Nurse Specialist, Certified Nurse Legal and the Certified Registered Nurse Analysis. Family Nurse Practitioner was a group of providers that dealt from birth to death and have a specific certification for that.

SEN. SCHMIDT asked if the Advanced Practice Registered Nurse was the same as the Family Nurse Practitioner. **Ms. Butler** said Family Nurse Practitioner was a subgroup of the broader term Advanced Registered Nurse.

SEN. SCHMIDT asked where physician assistants fit in and what was their educational level. **Ms. Butler** said the Montana Nurses Association supported other providers such as Physician Assistants and every time they had brought an Advanced Practice Nurse to be bonded, the Association would ask the Physician Assistants if they would like to be included. They graciously said "thank you, but we are already covered under the physicians. The difference between Physicians Assistant and Advanced Practice Registered Nurses was that PA's by current law had to have a Bachelors Degree and be supervised by a physician. By current law, Advanced Practice Registered Nurses had to have a Master's degree and an independent practice in Montana.

SEN. BOHLINGER said he and his wife had living wills but they traveled a great deal and he wondered if he were to be injured in an accident while traveling, how were people going to know he did not want to be resuscitated. Did he need to keep it in his wallet. **Ms. Nelson** said yes he did. If he were in another state, he needed to have it with him because he did not know if he were going to end in a hospital emergency room or with a physician who did not know him. She said there was a doctor in

town who had a long discussion with a woman who had a neurological disease that was advancing quickly but she was still functional. She had the conversation with her doctor and then she went on vacation with her husband to another state where she experienced a traumatic event that put her into an intensive care unit. The woman had not had a conversation with her husband and because she did not have anything on paper, she was put on life support and lived for years on life support unable to function in any way.

Closing by Sponsor:

REP. FRANKLIN asked the committee to remember when they voted on the bill, it did not change the Nurse Practice Act and it did not change the living will statute. It allowed Advanced Practice Nurses who were educated, capable, and designated as appropriate, to be able to make those decisions. She said **SEN. NELSON** had agreed to carry the bill. Her primary care provider was a PA in Medicine Lake and she understood the necessity for it.

EXECUTIVE ACTION ON HB 585

Motion/Vote: **SEN. ESP** moved that HB 585 BE CONCURRED IN. Motion carried 9-0.

EXECUTIVE ACTION ON HB 703

Motion: **SEN. ESP** moved that HB 703 BE CONCURRED IN.

Discussion:

SEN. CROMLEY passed out his proposed amendment. He proposed to strike the word "including" following "a child," and insert "which may include," found on Page 5, Line 30.

He also wanted on Page 6, Line 3, following the word "efforts," strike "which may include the adult victim obtaining an order of protection pursuant to Title 40, Chapter 15, Part 2."

SEN. CROMLEY said the department had some concern about having to encourage the person to obtain or instruct the person on obtaining the order. The department did not want too much mandate upon them that they had to obtain the order. There was some concern that the committee did not want them to be an advocate necessarily, but it was still possible.

SEN. DEPRATU said the people that had to be in the process coming from the stand point of the state, the decisions they had to make

weighed heavily on them. He thought it was good to remove that because it left it to reasonable efforts. No two situations were alike and it left some judgment on their part that was worthwhile. Every situation could not be mandated the same way. He said it was a good amendment.

{Tape: 2; Side: B}

Motion/Vote: SEN. CROMLEY moved that HIS AMENDMENT BE ADOPTED.
Motion carried 9-0.

Motion/Vote: SEN. ESP moved that HB 703 BE CONCURRED IN AS AMENDED. Motion carried 9-0.

EXECUTIVE ACTION ON HB 557

Discussion:

SEN. ESP said there had been a question about a form signed that should notify the person he might go on a national list.

SEN. STONINGTON said REP. ANDERSEN had approached her and said she was very uncomfortable with amending the bill.

SEN. DEPRATU and SEN. STONINGTON both said they did not have any problem with the way the bill was already.

SEN. O'NEIL MOVED for an amendment on HB 557. **EXHIBIT**(phs58a09)

SEN. BOHLINGER said he appreciated SEN. O'NEIL's creativity but he resisted his amendment. He said in the true sense of charity, he wanted to make one final act of good will by giving and any suggestion there might be a transfer of cash was wrong and he could not support the amendment.

SEN. O'NEIL's amendment failed.

Motion/Vote: SEN. GRIMES moved that HB 557 BE CONCURRED IN.
Motion carried 9-0.

{Tape: 3; Side: A}

ADJOURNMENT

Adjournment: 5:10 P.M.

SEN. JERRY O'NEIL, Chairman

ANDREA GUSTAFSON, Secretary

JO/AG

EXHIBIT (phs58aad)